

Your Rights as a Taxpayer - Revised: October 2023

Most people understand they have a duty to pay all taxes imposed by the State of Maine when those taxes are due. Many people, however, do not know that the law gives them important rights as taxpayers and places important obligations on the State in dealing with them.

Maine Revenue Services (MRS) believes that everyone benefits when taxpayers know their rights under the tax laws. To help you understand what you may expect of MRS, this document has been prepared to describe your rights and MRS's obligations.

The mission of MRS is to fairly and efficiently administer the State's tax laws with integrity and professionalism. You can help MRS achieve this mission by understanding your rights as a taxpayer. Please read the following information carefully.

I've received an assessment or determination, but I don't agree that I owe the amount due or I don't agree with the determination. What should I do?

You have 60 days from the day you receive an assessment or determination to request that MRS reconsider the assessment or determination. See 36 Maine Revised Statutes (M.R.S.) § 151. Reconsideration requests (i.e., petitions) must be in writing. Please use the Petition for Reconsideration form available at www.maine.gov/revenue/tax-return-forms/general-forms. Include in your petition the amount of the assessment or the determination that you want MRS to reconsider along with a detailed description and, if applicable, all documentation supporting your request. Make sure the request is postmarked or delivered to MRS before the 60-day period runs out. Mail your complete petition to:

**Division Reconsideration
Maine Revenue Services
PO Box 1060
Augusta, Maine 04332-1060**

What is a "determination" that I may petition for reconsideration under 36 M.R.S. § 151?

Generally, a notice of determination that may be petitioned under 36 M.R.S. § 151 will have appeal rights included in the notice. Written communication by MRS prior to a notice of assessment is generally not considered a "determination" within the meaning of 36 M.R.S. § 151 (e.g., demand to file notice). Examples of a "determination" eligible for reconsideration include, but are not limited to, a denial of refund claim or application for exemption. In addition, written communication by MRS after a notice of assessment is generally not considered a "determination" eligible for reconsideration (e.g., lien notice of statement balance). Thus, make sure to review any MRS notice to see if appeal rights are included to be eligible for reconsideration.

I've received an assessment. I agree with the assessment, but I can't pay. What should I do?

If you are unable to pay the amount due in full, you should pay as much as you can now. Penalties and interest may accrue on any balance until paid. You may call MRS to discuss payment arrangements or payment plans. Contacting MRS timely and establishing an acceptable payment plan may prevent enforced collection activity against you.

Can I ask to have interest waived?

Yes. MRS may waive interest in certain unusual circumstances; however, these cases are rare. You can request reconsideration of interest by petitioning as previously explained. See 36 M.R.S. § 186.

Can I ask to have penalties waived?

Yes. MRS must waive certain penalties (e.g., failure-to-file or failure-to-pay penalties) on a showing of reasonable cause or if reasonable cause is otherwise apparent. See 36 M.R.S. § 187-B(7). You can request reconsideration of certain penalties by petitioning as previously explained. Reasonable cause includes, but is not limited to, erroneous information provided by MRS, death or serious illness of the taxpayer or member of the taxpayer's immediate family, or a natural disaster. In addition, underpayment of estimated tax penalties may also be waived for cause. See 36 M.R.S. § 5228(5).

However, negligence, fraud, and insufficient-funds penalties are not eligible for abatement. See 36 M.R.S. § 187-B(7).

What do I do if I think I'm entitled to a refund?

If you believe that you have overpaid a tax, you must request a refund in writing or file an amended return within the period allowed by law (generally three years from the later of the date of original filing or overpayment). For income tax, the amount eligible for refund is further limited to amounts paid within three years from the refund claim. See 36 M.R.S. § 5278(2). If MRS denies your refund request, you may ask for reconsideration under the same procedure used for assessments and determinations.

What do I do if I think I'm entitled to a refundable credit?

If you believe that you are entitled to a refundable credit, you must claim the refundable credit on a return within the period allowed by law (generally three years from the return due date). If MRS denies your request for a refundable credit or issues an assessment for a refundable credit that was already granted, you may ask for reconsideration under the same procedure used for assessments and determinations.

After I file a petition, do I still have to pay the amount due?

No. Ordinarily, you don't have to pay the amount due while your case is under appeal.

No attempt will be made to collect the amount due while your case is under appeal. However, interest, but not penalties, will continue to accrue during the appeals process. You can minimize additional interest by helping to get your case decided as quickly as possible. For example, if you have any documents that you want MRS to consider, you should attach copies to your petition. You should also be as specific as possible in explaining why you believe the assessment is not correct.

However, if you have received a "jeopardy" assessment, you must immediately pay the assessed amount, or file a bond or other security, to prevent immediate collection proceedings. You may still file a petition within 60 days as with any other assessment.

For any assessment, if you pay the amount due and MRS later determines that you do not owe some or all of the assessment, MRS will issue you a refund.

Can I ask to meet with MRS?

Yes, if you think meeting with MRS would be helpful. A meeting with MRS may be held in person or by telephone. You may bring an attorney, an accountant, a bookkeeper, or any other duly authorized representative you believe would be helpful during the meeting.

To safeguard the confidentiality of your tax information, please provide MRS with a document, which must be signed by you, authorizing MRS to communicate with your duly authorized representative regarding your tax matter. You may use the Petition for Reconsideration form (complete Sections 6 and 7), the MRS Power of Attorney form (Form 2848-ME), or the MRS Limited Power of Attorney form (Form 2848-ME-L). However, note that a *limited* power of attorney form authorizes the representative to communicate with MRS but *not* to act on your behalf. All forms are available at www.maine.gov/revenue/tax-return-forms/general-forms. You may stop a meeting at any time if you want to consult with your authorized representative. Another date can be scheduled to finish the meeting.

Whether or not a meeting is held, you may work with MRS to resolve the matter through correspondence, informal discussion, payment plan, or a settlement offer.

May I record a meeting with MRS?

Yes. Any time you meet with an MRS representative concerning the determination or collection of tax, you may at your own expense make an audio recording of the meeting. If you want to make a recording, you must notify MRS before the meeting.

Who makes the decision on reconsideration on my case after I have explained my position to MRS?

The MRS division that made the assessment or determination will review your petition and any additional evidence presented and issue a decision on reconsideration of your case.

How will I be notified of the decision on reconsideration?

Generally, MRS will mail you and, if applicable, your authorized representative a decision on reconsideration letter within 90 days of receiving your petition. However, the 90-day period can be extended by mutual consent by you and MRS. Some reconsideration requests may also require more time to review due to various factors, such as complex tax issues, requests for additional information, or ongoing discussions with taxpayers.

Can I withdraw my request for reconsideration?

Yes. At any point during the reconsideration process before a decision is issued, you may withdraw your request for reconsideration. To withdraw, you should notify the MRS division handling your reconsideration in writing.

What can I do if the decision on reconsideration says that I still owe the amount due or I don't agree with the decision on reconsideration?

You may contact MRS to arrange to pay the amount due, including discussing payment plan options. If you still don't agree that you owe the amount due, or you don't agree with the decision, and your reconsideration request was timely filed, you have 60 days from the day you receive the decision on reconsideration to appeal your case to either the Maine Board of Tax Appeals (Board) (if the amount in dispute in your timely petition to MRS was at least \$1,000 and not more than \$500,000) or Maine Superior Court (regardless of the amount stated in your petition). Decisions by the Board may also be appealed to Maine Superior Court.

At any time, you may submit an offer in compromise (settlement) request to MRS (instructions are available at www.maine.gov/revenue/taxes/compliance). MRS may compromise a liability (i.e., tax, interest, or penalties) in cases where there is either doubt as to liability or doubt as to collectability, or both. MRS may decide to accept or decline a settlement offer, or make a counteroffer. MRS's decision to decline a settlement offer is not subject to review under 36 M.R.S. § 151. In addition, if MRS accepts a settlement offer, the liability or issue in question is conclusively settled. Neither the taxpayer nor MRS may reopen an executed settlement agreement except in the case of falsification or concealment of assets by the taxpayer, fraud or mutual mistake of material fact. See 36 M.R.S. § 143.

What happens if I miss the 60-day deadline to ask for reconsideration?

As discussed above, you may submit an offer in compromise (settlement) request to MRS at any time. In addition, you have three years from the date of the assessment to request that MRS cancel or abate any tax (including interest and penalties) that

has been levied illegally or in certain other situations. There is no right to appeal the decision if MRS declines to cancel or abate the tax, and collection efforts may proceed. See 36 M.R.S. §§ 142 and 143.

What happens if I don't pay?

If tax is due, and you have no remaining appeal rights, you will receive a letter from MRS informing you that you have 10 days to pay the full amount to avoid enforced collection. The letter will also explain your rights during the enforced collection process. See 36 M.R.S. § 171. You may always contact Compliance/Collections to try to set up a payment plan.

What does enforced collection mean?

Enforced collection means that if you do not pay the amount due voluntarily, MRS can collect it from you by various methods, including seizing and selling your property. MRS can also attach your wages, levy your bank account, and block the renewal of a professional Maine license(s) or revoke the license(s). See, e.g., 36 M.R.S. §§ 175 and 176-A.

Is all of my property subject to enforced collection?

No. There are certain items that MRS cannot seize and sell, and a portion of your wages is exempt from attachment. See, e.g., 36 M.R.S. § 176-A.

What if I have not filed a required return or paid the tax due?

If a return is filed after the due date, a late filing penalty is charged. The penalty is \$25 or 10% of the tax due, whichever is greater. If a return is not filed after MRS sends a formal written "demand notice" for the return, the penalty is \$25 or 25% of the tax due, whichever is greater. In addition, interest and penalties may be charged for late tax payments. The penalty can be as much as 25% of the tax due. See 36 M.R.S. §§ 186 and 187-B.

I've been notified that I am scheduled for an audit. What records may the auditors examine?

Whenever necessary for the administration of Title 36, MRS auditors may examine any books and records, including electronic records, or other property that is relevant to determining your tax liability (including interest and penalties). The auditors will work with you to determine a convenient time for the audit and will tell you in advance which initial records you should arrange to have available. As the audit progresses, it may become necessary for the auditor to make additional requests for records needed for the completion of the audit. See 36 M.R.S. §§ 112(3) and (4); see also MRS Rule 103.

Will the information in my records be kept confidential?

Yes. Information obtained from taxpayers

by MRS is kept strictly confidential, unless release is otherwise authorized by law. See, e.g., 36 M.R.S. § 191. In fact, criminal penalties may be imposed on any MRS employee who wrongfully inspects or divulges confidential information. A person who willfully violates the confidentiality laws under 36 M.R.S. § 191 commits a Class E crime and an offender who is an officer or employee of the State must be dismissed from office. **Note: Pursuant to 36 M.R.S. § 191(2)(UU), reconsideration decisions may be produced in court or pursuant to a discovery or freedom of access request in redacted format so as not to reveal any taxpayer-identifying information.**

Who may I contact if I have been unable to resolve a problem with MRS?

You may contact the Taxpayer Advocate if you would like assistance in resolving a problem with MRS. The Taxpayer Advocate has the authority to investigate complaints affecting taxpayers generally or any particular taxpayer and, when appropriate, to make recommendations to MRS with respect to those complaints. MRS is required to respond to the Taxpayer Advocate within three months of receiving a formal recommendation for change from the Taxpayer Advocate. The Taxpayer Advocate may also propose law changes in an effort to reduce problems taxpayers have with MRS. See 36 M.R.S. § 151-C.

MRS Contact Information:

A complete list of MRS contact information is available at www.maine.gov/revenue.